IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SEVENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 29825 of 1998

Between:

G.S.Prakash, S/o. Late G.Nagistty, United India Insurance Co.Ltd., Rajam Branch Office,Main Bazar, R/o. Rajam Village, Srikakulam District.

..... PETITIONER

AND

1 The United India Insurance Co., Rep. by the Chairman-cum- Managing Director, Head Office, 24 Whites Road, Madras-600 014.
2 The United India Insurance Co., Rep. by it's Regional Manger, Viskhapatnam.
3 The United India Insurance Co., Divisional Manager, & Competent Authority, Regional Office, Rajahmundry, E.G.District.
4 The Enquiry officer, Mr. K.Babu Kotnis, Regional Office, United India Insurance Co., Ltd., Visakhapatnam.
5 The Branch Manager, Branch Office, United India Insurance Co., Ltd., 6-2-1, K.Agraharam, Bank Street, Amalapuram.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction preferably one in the nature of Writ of Mandamus, declaring that the orders dt.2.6.1998 passed by the respondent No.2 confirming the orders dated 6.3.98 passed by the competent authority respondent No.3, reducing the pay of the petitioner to a lower stage in the time scale, while approving the enquiry report of the Enquiry officer/fourth respondent as arbitrary, illegal and against the principles of natural justice and consequently to set aside the said punishment of penalty imposed vide order dt.6.3.98 with a direction to the respondent authorities to give a reasonable opportunity to the petitioner to defend his case with the assistance of a defending officer/ defence counsel in the enquiry proceedings.

Counsel for the Petitioner:MR.S.AGASTYA SHARMA

Counsel for the Respondents: MR.S.SRINIVAS REDDY

The Court made the following :

ORDER:

This writ petition is filed seeking a *Writ of Mandamus* to declare the order, dated 02.06.1998, passed by the 2nd respondent confirming the order, dated 06.03.1998, passed by the

3rd respondent in reducing the pay of the petitioner to a lower stage in the time scale, as arbitrary and illegal.

It is the case of the petitioner that he joined the service of United India Insurance Company Limited as an Assistant and has been working to the satisfaction of the superior officers as well as colleagues. He was transferred to Branch Office at Port Blair, Andaman, and while working there, the Branch Manager-one Sri S.N.Subbaiah was pleased to authorize him to collect the premium and issue the basic documents, such as, bills, receipts, cover notes, main declaration and janatha personnel accident policies etc. Though the petitioner was only an Assistant in the Branch Office, he continued to do the work assigned to him. Subsequently, he was transferred to Branch Office, Amalapuram. While working at Amalapuram, on 11.09.1984, the petitioner, on his way to office from Simpalli village, met with an accident and sustained fracture to his right leg apart from other injuries. Initially, he took treatment in the Government hospital, Kakinada and later on, in a private hospital. Though he reported to duty on 01.02.1985, he was unable to work independently and was having frequent complaints of giddiness, fainting etc. Subsequent to the said accident, he was subjected to frequent illness and paralytic stroke. While so, in the year 1987, he was once again attacked with mild paralytic stroke, which affected his mouth. Pursuant to that, he was unable to speak fluently and could not respond immediately in the inter-human relationship. However, he was discharging the duties assigned to him to the utmost satisfaction of the authorities concerned. While the matter stood thus, on 22.05.1995, a charge sheet was issued to the petitioner enumerating the following charges:

> "1. He is in the habit of slowing down the work of the department allotted to him and also negligent in the performance of the duties.
>
> 2. Non-cooperation with the colleagues and also with superiors.

3. Signing documents not authorized to do".

After completing the enquiry and required formalities, the petitioner was inflicted with a major punishment of reduction in the time scale by six incremental stages for rest of his service. According to the petitioner, the same is arbitrary and illegal.

A counter affidavit has been filed on behalf of the respondents denying the contentions made by the petitioner in the affidavit filed in support of the writ petition. Learned counsel for the respondents strenuously contended that since the misconduct on the part of the petitioner is proved, no lenient view can be taken and the petitioner is not entitled for the relief sought for under Article 226 of the Constitution of India.

Learned counsel for the petitioner strenuously contends that since the petitioner suffered paralytic stroke and was unable to respond in the inter-human relationship, the authorities have taken his mannerism to be rude and unpolished, and laid the charge sheet and after enquiry, inflicted with a major punishment of reduction in the time scale of six incremental stages for the rest of the service. According to the learned counsel for the petitioner, even if the misconduct is proved, since the petitioner could not participate in the enquiry due to his illness, the punishment inflicted is disproportion to that of the misconduct alleged against the petitioner. Learned counsel asserted that, in fact, the petitioner reached the maximum of the time scale. Learned counsel further submits that the respondents not only reduced six incremental stages but also denied two stagnated increments. This has resulted in lot of financial loss to the petitioner.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and gone through the material made available on record.

At the out set, it may be noticed that neither the charges nor the articles of

charges, accompanying the charge sheet, do indicate any serious misconduct on the part of the petitioner. What all it indicates is slowing down the work; non-cooperation with the colleagues and signing documents not authorized to do so. It is not the case of the respondents that any loss is caused to the Company in view of the peculiar behaviour of the petitioner. The respondents did not deny the fact that the petitioner met with an accident; suffered paralytic stroke thrice; disfiguration of his mouth and his inability to speak and interact with his colleagues properly. The peculiar behaviour of the petitioner, after the accident and paralytic stroke, was taken seriously by the respondents and inflicted him with the punishment. It is seen from the record that since the petitioner while attending the enquiry walked out in the middle, the enquiry officer recorded that the petitioner did not maintain the decorum of the office etc. This all would go to show that there was some change in the behavrioural pattern of the petitioner and nothing more.

In view of the above discussion, I am of the opinion that the punishment inflicted on the petitioner is disproportion to that of the misconduct alleged against him. Further, the record does not disclose that the past conduct of the petitioner is not good and any punishments were imposed on him. Hence, I deem it appropriate to limit the punishment for a period of five years from the date of passing of the impugned order.

Accordingly, the respondents are directed to impose the punishment as contemplated in the impugned proceedings only for a period of five years from the date of the impugned order. Thereafter, the petitioner is entitled for restoration of the pay scale and also all the wages etc. from that date. This exercise shall be done within a period of three months from the date of receipt of a copy of this order.

In the result, the writ petition is allowed to the extent indicated above. No order as to costs.

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C.V. RAMULU, J

Dated:27.06.2005

GJ

To

1 The Chairman-cum- Managing Director, United India Insurance Co., Head Office, 24 Whites Road, Madras-600 014.
2 The Regional Manger, United India Insurance Co., Viskhapatnam.
3 The Divisional Manager, & Competent Authority, United India Insurance Co., Divisional Office, Rajahmundry, E.G.District.
4 The Enquiry officer, Mr. K.Babu Kotnis, Regional Office, United India Insurance Co., Ltd., Visakhapatnam.
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